IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20227 of 2024
and
W.M.P.Nos.22140 & 22139 of 2024

Tvl.Whispering Meadows,
GSTIN: 33AACFW4432C1ZN,
Represented by its Proprietor Kamesh,
264, Golf Links Road, Ooty,
The Nilgiris – 643 006.

... Petitioner

Vs.

The State Tax Officer,
Udhagai South Assessment Circle,
Jai Hills Road,
Uthagamandalam – 643 001.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Form GST DRC-07 bearing Reference No.ZD331123114677N/2017-18 dated 20.11.2023 issued by the respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings dated 20.11.2023 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned

order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner.

4. On the other hand, the learned Government Advocate would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was

passed in violation of principles of natural justice. In such view of the matter, this Court is inclined to set aside the impugned order dated 20.11.2023 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 20.11.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed amount to the respondent within a period of two weeks from today (09.08.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amount.
>
> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
>
> (iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

09.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

The State Tax Officer,
Udhagai South Assessment Circle,
Jai Hills Road,
Uthagamandalam – 643 001.

KRISHNAN RAMASAMY.J.,

nsa

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